HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.21635 of 2007

Dated: 05-11-2007

Between:

Andela Eswaramma
And others

..... Pet

AND

State of Andhra Pradesh rep by
Prl.Secretary, MA & UD Dept.,
Hyderabad.
And others

..... Respc

Counsel for the petitioners : Sri B.Venkata Rama Rao

Counsel for the respondents : A.G.P. for Land Acquisition

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.21635 of 2007

O R D E R:

This writ petition is filed for a writ of mandamus to declare the action of respondents in not withdrawing the land acquisition proceedings under Section 48(1) of the Land Acquisition Act 1894 (for short "the Act") in respect of the lands admeasuring Ac.0.24 gts., in survey No.28/3, Ac.0.01 gts., in survey No.29/1 and Ac.0.08 gts., in survey No.30/2 of Serilingampally village and Mandal, Ranga Reddy district.

At the hearing, it is contended by the learned counsel for the petitioners that the land, which is subject matter of this writ petition, was acquired for construction of a track for Metro Rail Transport Services (MRTS) and an award was passed on 10.4.2003. The learned counsel further submitted that in respect of the subject lands, as there is dispute regarding ownership a reference was made by the Land Acquisition Officer under Section 30 of the Act to the civil court to determine the ownership and the persons who are entitled to receive compensation. The learned counsel for the petitioners further submitted that the lands covered in this writ petition and also some other lands acquired were not put to use and therefore it is incumbent upon the respondents to invoke Section 48(1) of the Act to de-notify the lands.

In view of the fact that on the petitioners' own admission the very ownership of the lands is in dispute leading to reference of the dispute to civil court under Section 30 of the Act. To enforce the provisions of Section 48(1) of the Act a person has to establish his title. Since the very title of the petitioners is in dispute before the civil court, in my considered view they cannot maintain the present writ petition until the title dispute is resolved under Section 30 of the Act.

Therefore, without going into the issues whether the possession was actually taken or not and the plea based on Section 48(1) of the Act is available to the petitioners in the instant case, the writ petition is dismissed with liberty to the petitioners to approach this Court at an appropriate stage after the disposal of the reference under Section 30 of the Act.

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C.V.NAGARJUNA REDDY,J

Date:05.11.2007

mdaa